

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 10 MAY 2005



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Applicant's or agent's file reference PC03018-LG	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. <b>PCT/KR2003/002470</b>	International filing date (day/month/year) <b>17 NOVEMBER 2003 (17.11.2003)</b>	Priority date (day/month/year) <b>16 JANUARY 2003 (16.01.2003)</b>
International Patent Classification (IPC) or national classification and IPC  <b>IPC7 C07C 49/173</b>		
Applicant  <b>LG LIFE SCIENCES LTD. et al</b>		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 3 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of \_\_\_\_\_ sheets.

3. This report contains indications relating to the following items:
- I ☒ Basis of the report
  - II ☐ Priority
  - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - IV ☐ Lack of unity of invention
  - V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - VI ☐ Certain documents cited
  - VII ☐ Certain defects in the international application
  - VIII ☐ Certain observations on the international application

Date of submission of the demand  <b>25 FEBRUARY 2004 (25.02.2004)</b>	Date of completion of this report  <b>14 APRIL 2005 (14.04.2005)</b>
Name and mailing address of the IPEA/KR  Korean Intellectual Property Office 920 Dunsan-dong, Seo-gu, Daejeon 302-701, Republic of Korea Facsimile No. 82-42-472-7140	Authorized officer  MOON, Sun Heup Telephone No. 82-42-481-5543 

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/KR2003/002470

## I. Basis of the report

### 1. With regard to the elements of the international application:\*

- ☒ the international application as originally filed
- ☐ the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the claims:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement) under Article 19  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the drawings:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed." and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item I and annexed to this report.

# INTERNATIONAL PRELIMINARY EXAMINATION

International application No.

PCT/KR2003/002470

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	1 - 16	YES
	Claims	NONE	NO
Inventive step (IS)	Claims	1 - 16	YES
	Claims	NONE	NO
Industrial applicability (IA)	Claims	1 - 16	YES
	Claims	NONE	NO

### 2. Citations and explanations (Rule 70.7)

#### 1. Reference is made to the following documents:

- D1 : US 5594153 A(E.R. SQUIBB&SONS INC.) 14 JANUARY 1997  
D2 : US 6340767 B(KANEKA CORP.) 22 JANUARY 2002  
D3 : EP1024139 A(KANEKA CORP.) 02 AUGUST 2000

#### 2. Novelty and an Inventive step

The subject matters of the present invention relate to a novel process for preparing an optically active 5-hydroxy-3-oxo-hexanoic acid derivative or its tautomer by Blasise reaction of (S)-4-halo-3-hydroxybutyronitrile with alpha-haloacetate.

Document D1, which is considered to represent the most relevant state of the art, discloses a process for producing a hydroxyoxohexanoic acid derivative.

However, the claims 1-16 of the present invention uses 4-halo-3-hydroxy butyronitrile as a starting material and zinc metal activated by an organic acid unlike the prior art D1. Moreover, the present invention differs from D1 which uses an excess lithium compound that has some problems to be used in the industrial production and has a specific temperature condition, less than -30°C, in that the process according to the present invention provides advantages over D1, for example, minimized side effect, operation around ambient reaction temperature, and minimal use of reagents.

Therefore, the invention claimed in claims 1-16 cannot be easily invented from the teaching of D1 and is considered to be novel and to involve an inventive step under PCT Article 33(2)-(3).

#### 3. Industrial Applicability

The subject matter of the claims 1-16 is considered to be industrially applicable under PCT Article 33(4).

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